

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

STANLEY HEARD)
)
 Plaintiff,) Case No.:
)
)
)
GATEWAY LANDING ON THE CANAL)
APARTMENTS OWNER KOPP LLC)
)
)
)
Defendants.)

COMPLAINT AND JURY DEMAND

Plaintiff, Stanley Heard, by and through his attorneys, for his Complaint against Defendants, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC, demanding a jury trial, alleges upon information and belief:

INTRODUCTION

This is a diversity action for damages in premises liability and negligence resulting from injuries sustained by the Plaintiff, Stanley Heard, when he slipped and fell in the parking lot of the defendant's location in Rochester, NY.

PARTIES

1. That, at all times hereinafter mentioned, the Plaintiff, Stanley Heard, is and was a citizen and resident of Alabama, at 977 Joe Gamble Rd., Talladega, AL 35160.
2. That, upon information and belief, at all times hereinafter mentioned, the Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC is a corporation organized and existing under and by virtue of the laws of the State of Delaware, and authorized to conduct business in the State of New York.

3. That all times hereinafter mentioned, Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC, OWNED and or LEASED the premises located at 155 Canal Landings Blvd, Rochester, NY 14626.

4. That all times hereinafter mentioned, Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC, their agents, servants, and or employees MANAGED and or MAINTAINED the premises located at 155 Canal Landings Blvd, Rochester, NY 14626.

5. That all times hereinafter mentioned, Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC, their agents, servants, and or employees CONTROLLED the premises located at 155 Canal Landings Blvd, Rochester, NY 14626.

6. That all times hereinafter mentioned, Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC, their agents, servants, and or employees SUPERVISED the premises located at 155 Canal Landings Blvd, Rochester, NY 14626.

JURISDICTION AND VENUE

7. Jurisdiction in this case is based upon diversity of citizenship, pursuant to 28 U.S.C. §1332, in that:

a. Plaintiff, Stanley Heard, is a citizen of the State of Alabama.

b. Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC., upon information and belief, is incorporated in the State of Delaware, and service may be sent to it's Registered Agent: Corporation Service Company, 80 State Street, Albany, NY 12207

c. Defendant GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC is subject to the jurisdiction of this Court and venue is

proper in the Western District pursuant to 28 U.S.C. § 1331(b)(2) and 28 U.S.C. § 1331(c) as the accident made the basis of this Complaint occurred in Rochester, New York.

d. The amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs.

FACTS

8. That on or about February 27, 2021, the Plaintiff, Stanley Heard, was lawfully at the premises of the Defendant, in Rochester, New York, when he was caused to slip and fall in the parking lot owned, operated, and controlled by the Defendant and sustain serious and permanent injuries.

PLAINTIFF'S CAUSE OF ACTION

9. Plaintiff repeats and realleges the allegations contained in paragraphs "1" through "8" of this Complaint as if more fully set forth herein.

10. The aforesaid injuries to the Plaintiff, Stanley Heard, were caused by the negligence of the Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOFP LLC, their agents, servants, and / or employees in the ownership, operation, maintenance, management and the control of the aforesaid premises and area located thereat;

a. in causing, permitting and allowing the area therein to be, become, and remain a dangerous, unsafe and otherwise hazardous condition;

b. in failing to; provide a safe place to walk and park;

- c. in failing to repair, timely clean, remove and or properly remove aforesaid dangerous and defective condition(s) of the subject premises;
- d. in failing to inspect, properly inspect and or timely inspect the aforesaid place to ascertain the dangers existing thereat;
- e. in failing to place barricades and other warning devices at the place to prevent Plaintiff and others from traversing the threat;
- f. in failing to maintain, properly maintain and or adequately maintain the threat, and knowingly permitting said condition.

11. That the defendant had both actual and constructive notice of said dangerous and defective condition which, caused plaintiff to slip and fall and sustain serious and permanent injuries.

12. Plaintiff, Stanley Heard, requests a trial by struck jury.

WHEREFORE, Plaintiff, Stanley Heard, demands judgment against the Defendant, GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOPF LLC, for an award of compensatory damages, for recovery of money damages for past and future pain and suffering, medical expenses incurred in the past and future, for lost wages, both past and future, and disfigurement, together with the costs and disbursements of this action, and for such other and further relief as this court may deem just and proper.

A JURY TRIAL IS HEREBY DEMANDED ON ALL COUNTS

This May 25, 2022.

Respectfully submitted,

/s/ Charles W. Beene
CHARLES W. BEENE
ATTORNEY FOR THE PLAINTIFF

OF COUNSEL:

SLOCUMB LAW FIRM, LLC

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REQUEST FOR SERVICE OF PROCESS

The Plaintiff hereby requests that the Summons and Complaint in this case be served on the following Defendants by Certified Mail at their respective mailing address as follows:

**GATEWAY LANDING ON THE CANAL APARTMENTS OWNER KOFP LLC
REGISTERED AGENT: CORPORATION SERVICE COMPANY
80 STATE STREET
ALBANY, NY 12207**

/s/ Charles W. Beene
CHARLES W. BEENE
OF COUNSEL